

United States Postal Service

§ 958.12

evidence is elicited on the issues in dispute, but irrelevant, immaterial or repetitious evidence is excluded;

(11) Deciding cases, upon motion of a party, in whole or in part by summary judgment where there is no disputed issue of material fact;

(12) Establishing the record in the case; and

(13) Issuing a written Initial Decision containing findings of fact, conclusions of law, and determinations with respect to whether civil penalties, clean-up costs and/or damages for mailing hazardous materials and/or related violations under 39 U.S.C. 3018 should be imposed, and if so, the amounts thereof, after taking into account the penalty considerations contained in 39 U.S.C. 3018(e).

§ 958.10 Prehearing conferences.

(a) At a reasonable time after issuing the Notice of Docketing and Hearing, and with adequate notice to the parties, the Presiding Officer may conduct, in person or by telephone, one or more prehearing conferences to discuss the following:

(1) Simplification of the issues;

(2) The necessity or desirability of amendments to the pleadings, including the need for a more definite statement;

(3) Stipulations or admissions of fact or as to the contents and authenticity of documents;

(4) Limitation of the number of witnesses;

(5) Exchange of witness lists, copies of prior statements of witnesses, and copies of hearing exhibits;

(6) Scheduling dates for the exchange of witness lists and of proposed exhibits;

(7) Discovery;

(8) Possible changes in the scheduled oral hearing date, time or site, if requested; and

(9) Any other matters related to the proceeding.

(b) Within a reasonable time after the completion of a prehearing conference, the Presiding Officer shall issue an order detailing all matters agreed upon by the parties, or ordered by the Presiding Officer, at such conference.

§ 958.11 Respondent's access to information.

Except as provided in this section, after receiving the Notice of Docketing and Hearing the respondent may review and obtain a copy of all relevant and material documents, transcripts, records, and other materials which relate to the determination of liability by the Determining Official under 39 U.S.C. 3018, and all exculpatory information in the possession of the Determining Official relating to liability for civil penalties, clean-up costs and/or damages for mailing hazardous materials and/or related violations under 39 U.S.C. 3018. The respondent is not entitled to review or obtain a copy of any document, transcript, record, or other material which is privileged under Federal law. The Presiding Officer is authorized to issue orders placing limitations on the scope, method, time and place for accessing this information, and provisions for protecting the secrecy of confidential information or documents.

§ 958.12 Depositions; interrogatories; admission of facts; production and inspection of documents.

(a) *General policy and protective orders.* The parties are encouraged to engage in voluntary discovery procedures. In connection with any discovery procedure permitted under this part, the Presiding Officer may issue any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense. Such orders may include limitations on the scope, method, time and place for discovery, and provisions for protecting the secrecy of confidential information or documents. Each party shall bear its own expenses relating to discovery.

(b) *Depositions.* After the issuance of a Notice of Docketing and Hearing, the parties may mutually agree to, or the Presiding Officer may, upon application of either party and for good cause shown, order the taking of testimony of any person by deposition upon oral examination or written interrogatories before any officer authorized to administer oaths at the place of examination, for use as evidence or for purposes of discovery. The application for an order